

**INVESTIGATION INTO DOMESTIC PARTNERSHIP,
MARITAL STATUS, AND EXTENDED FAMILY POLICIES**

Findings, Recommendations, and Appendices

**A Report by the Human Rights Commission
City and County of San Francisco
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August 1989

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INVESTIGATION INTO DOMESTIC PARTNERSHIP, MARITAL STATUS, AND EXTENDED FAMILY POLICIES

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Preface

The Human Rights Commission wishes to thank all persons who participated in the development of this report; the considerable expenditure of their time on the public hearing and other meetings is especially appreciated.

The Commission consists of Chairperson Lawrence Martin, Adrian Bermudez, Jr., Lenore Chinn, Rosemarie Fernandez, Frankie Gillette, Leonard Graff, May Jaber, Karen Kai, Lucile Lockhart, Isadore Pivnick, and Peter Sammon.

Special thanks are extended to the members of the HRC's Lesbian/Gay Advisory Committee, Allan Berube, Penny Chronis, Ruth Hughes, Ken Jones, Lani Kaahumanu, Jeremy Landau, Phyllis Lyon, Lester Olmstead-Rose, Deborah Romero, Tara Shannon, Judith Stevenson, Dan Turner, Carmen Vasquez, Simeon White, and Darrell Yee; interns John Hurst, Debra Moon, and Beth Shafran; Lesbian/-Gay and AIDS Unit Staff, Jackie Winnow (Coordinator), Larry Brinkin, and Norm Nickens; and other HRC staff members Frank Anderson, Gail Roberts, David Treanor, Gary Wong, and the support staff; Ms. Mary Butler (court reporter), and Mr. Norman Ishimoto (consultant) for their technical assistance. Particular thanks also go to all those who testified (see appendices).

Again, thank you for your collective efforts to implement and continue the City's policy of ensuring that human rights are extended to all San Franciscans.



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Summary

In 1982, the Board of Supervisors passed Domestic Partners legislation which would have extended recognition of non-traditional domestic partnerships and provided for various benefits to the partners of City employees. The legislation was vetoed by then-Mayor Dianne Feinstein.

In 1988, Board of Supervisors President Harry Britt announced his intention to introduce domestic partners legislation.

It has been widely recognized that workers and citizens of San Francisco (and other locales) who live in alternative family situations are denied the respect, support, and many benefits enjoyed by traditional married couples.

Many are members of families consisting of themselves and a "domestic partner" or "significant other," of the same or opposite sex; they share the commitment and necessities of life of any couple, but the lack of a marriage license stands in the way of equality of benefits and recognition of their relationships.

Similarly, a family unit may consist of siblings, or an aunt, or other blood relative, and not be recognized or supported by society as it would support a married couple.

Such benefits in question include: bereavement leave, family sick leave, hospital and jail visitation rights, access to university housing reserved for married couples, family discounts

offered by businesses, and coverage under health, insurance, and retirement plans.

The Human Rights Commission held a public hearing focusing on the areas of domestic partnership, extended family policy, and marital status discrimination on March 8, 1989. The public hearing was to provide a forum for the community to air its views on both the need for legislation covering alternative family policy and ideas for what the legislation should contain.

Supervisor Britt was present to testify, and Mayor Art Agnos participated as an Ex Officio member of the Commission. All Commissioners attended.

Speakers were invited to address the Commission on a number of topics: Existing Laws & Policies, Psycho-Social Dynamics of Non-Traditional Families, Business Establishments/Public Accommodations, Real Estate and Rentals, and Labor and Religion.

Members of the general public were invited to attend, and to register to speak following the scheduled speakers.

With one exception, all parties submitting testimony supported the domestic partner concept and legislation as a matter of recognizing and providing for a human right.

The experiences of municipalities and other jurisdictions which have instituted domestic partnership ordinances were all found to have been successful; the City of Berkeley ordinance was examined in detail. Testimony of City of Berkeley officials and insurers spoke unanimously to the effect that the legislation was

successfully implemented without any significant cost increase or other problems.

Several witnesses testified as to the psycho-social dynamics of alternative families. One Lesbian couple of 36 years spoke to the many legal barriers they faced (insurance, inheritance) and the additional burdens and costs these barriers imposed. A City employee described similar problems; she is in a heterosexual relationship of 12 years, but has lived for 19 years in a non-traditional family comprising five cohabiting adults.

Another City employee spoke about his past employer denying him bereavement leave upon the passing of his Gay partner; his union sided with the company, and he lost a lawsuit in which the company said there was no way for the company to know that his was a "bona fide relationship."

Witnesses addressed the situation of federal benefits for the elderly, some of which penalized marriage; and on the situation of the disabled who often are assisted by non-family individuals.

An HRC intern reported on the policies and practices of City and peninsula hospitals which varied greatly in admitting members of non-traditional families into the intensive care and critical care units to see their loved ones.

An economics professor testified on the varying practices of business incentives offered to families and married couples. He noted that while many non-related people might masquerade as family members to obtain a benefit, this was obviously impossible

for Gay or Lesbian couples. He also testified that there was no economic rationale for denying discounts to them while providing them to married couples.

Testimony in the real estate and rental section indicated that whereas the City's rent ordinance is marital status neutral, the University of California at Berkeley grants housing benefits to married students while denying them to domestic partners.

A City union official testified that unions supported domestic partnership benefits, pointing out that San Francisco lagged behind other Bay Area counties in this area.

A Reform congregation rabbi testified that Judaism per se had no strictures against non-traditional partnerships and in Talmudic times even recognized certain forms of them. He drew a distinction between secular governments and religions: although religions could offer suggestions, religious leaders must not expect their attitudes to run civil governments. Nor should the state turn to religion to decide citizens' best interests.

The sole speaker to testify against the proposed ordinance was a representative of the Catholic Archdiocese. He objected to the formation or recognition of an alternative to traditional marriage, but supported otherwise the provision by government for the health and other needs of its citizens.

The minister of a Gay church related his experiences in officiating at Lesbian and Gay weddings for over 20 years, including over 200 in the past three years. He characterized

them as as holy and as honorable as heterosexual marriages, and in that context, supported the proposed ordinance.

Testimony from the general public came from individuals who identified themselves as members of Lesbian and Gay organizations, both nonpartisan, Republican and Democratic; all spoke in favor of the legislation.

Written testimony was received from a Catholic organization describing its negotiated agreement's provisions recognizing domestic partnership rights, from a former Latter Day Saints (Mormon) minister who addressed his church's history concerning Gays, Lesbians, and Bisexuals and stated his support of the proposed legislation, and from a citizen who described eight collective bargaining agreements in the garment industry.

Based upon the evidence so gathered, the Commission announced its findings and recommendations on April 21, 1989. It concluded that while San Francisco had a history of refusing to tolerate discrimination based upon sexual orientation, it does exist in practice and by law, and it affects those in non-traditional family units; that Lesbian/Gay couples and extended families have not received equal treatment with married heterosexual citizens in terms of benefits and services; that domestic partners demonstrate commitment equal to that of heterosexual married couples; that existing laws and policies undermine family life for non-traditional families; that the City and County should enact legislation rectifying discrimination on account of

domestic partnerships and set policy that recognizes the diversity of San Francisco families; and that the Health Service System Board be requested to convene a task force to determine the feasibility of adding domestic partners or extended family members to City health benefit plans.

Chapter One

METHODOLOGY

The Human Rights Commission determined that a need existed for investigation into the concepts of domestic partnership, marital status, and extended family policies; the research was to include public hearings at which testimony would be invited from experts and from the interested general public, and a report of findings and recommendations for City policy would be proposed regarding extension of rights and protections to domestic partners.

In preparation for the public hearing on March 8, 1989, the Commission staff prepared and distributed a flier, a news release, and invited specific experts to offer testimony at the public hearing.

News releases and fliers were sent to over 200 organizations in the Bay Area, including community, minority, ethnic, elderly, and disabled media and organizations.

Testimony was received from 23 scheduled speakers and from seven members of the general public. Written testimony was also solicited, and three submissions (in addition to written versions of testimony presented by the speakers) were received.

In addition, research was conducted by HRC and other City and County staff. This research included: an examination of similar ordinances in effect in other jurisdictions in California, a legal review of current City and County ordinances which did or

might affect domestic partnership legislation, and a review of domestic partner policies in businesses and agencies throughout the United States, including insurance practices, hospital and jail visitation regulations and practices, bereavement and family sick leave policies, and business practices such as family discount plans.

Chapter 2

PUBLIC TESTIMONY

A. March 8, 1989 Hearings

Human Rights Commission Chairperson Lawrence Martin called the hearing to order and asked for the roll; all commissioners were present. He explained the purpose and rules of procedure of the hearing; he also explained that Mayor Art Agnos would attend as an Ex Officio member of the Commission.

He introduced the newly appointed Director of the Commission, Peter Jamero, who expressed his appreciation for the warm reception he has received, and his interest in the subject of the hearing.

Commission staff member Jackie Winnow was introduced; she explained the history of the issue, commencing with Supervisor Harry Britt's introduction of the first domestic partnership legislation in 1982, and the fact that the Commission had endorsed both the concept and the Supervisor's ordinance in 1982.

She referenced the consistently heavy complaint load she has received during her eight years as a staff member, from persons reporting discrimination against them due to their marital status and sexual orientation in employment, housing, and public accommodations, and the inability of the Commission to assist complainants without domestic partners legislation.

Ms. Winnow noted that as a City and County employee, she is without benefits enjoyed by fellow employees: she has been in a

seven-year relationship, in which there is a child, but has no partnership rights or benefits as another who may have been "married for just 30 seconds."

The testimony was organized and presented topically, by section.

Introduction

Honorable Harry Britt
President, Board of Supervisors
City and County of San Francisco

Supervisor Britt declared that it is a fundamental human right and freedom, "man or woman, Gay or straight, to form primary relationships, to fall in love, to develop relationships that may or may not involve parenting, to make commitments to one another, and to have those relationships treated with respect and dealt (with) equitably by the law."

He said that the major force of discrimination against Gays and Lesbians has been the denial of this legal recognition; he spoke of the relationship of Karen Thompson and Sharon Kowalski, which "proved tragically painful" because others couldn't deal with their love and commitment. He stressed that human rights and justice are at the core of this debate.

Supervisor Britt alluded to 1982, when domestic partner legislation was originally passed by the Board. The community message to him was a need "to restructure our laws and our social arrangements to reflect" diverse family realities.

Concerning the 1989 legislation, he noted that Burk Delventhal of the City Attorney's office is analyzing what the

City and County can and cannot do under the rules of State and Federal preemption, which will affect the form that his proposed legislation will take.

That notwithstanding, he stated three purposes: (1) to show the City's commitment "to bring justice to people who are in primary relationships outside of traditional marriage," and lead to a national solution; (2) to explore beyond this issue what other ways that family realities are unrecognized by City law and practices, including employee benefits, specifically, health benefits; and (3) to create a mechanism to identify these relationships, listen to the people involved, and deliver justice to them.

Cynthia Goldstein, Attorney
National Gay Rights Advocates, San Francisco

Ms. Goldstein identified her organization as a public interest law firm in San Francisco that represents the interests of Gays and Lesbians nationwide; her specialty is the areas dealing with Lesbian and Gay couples.

She prefaced her remarks by noting that the City has a very diverse range of family life and a high concentration of racial and ethnic minorities, in addition to different sexual orientations, and that this issue goes beyond just the Lesbian and Gay community.

She defined the populace involved as "your friends and your co-workers and your neighbors.... (T)he Lesbian and Gay couple,

some (whom) have children.... (T)he single parent who has children, sometimes has other adults living with them, helping them with the child care role.... (E)lderly people who sometimes form households with others to gain some of the financial and emotional support they need."

Most of these people are unable to marry under California law, regardless of their commitment to each other, or how financially and emotionally bound they are, and are thus denied privileges and benefits automatically given to married couples.

Ms. Goldstein stated that the Board of Supervisors has the power to outlaw discrimination based upon family status, to make strong policy statements encouraging private employers to not discriminate, and to form a task force to explore the issues of family diversity.

Also, the City has the power to forbid local businesses from offering a benefit to a married patron without offering it to non-married patrons; to forbid educational institutions to give spouses access to campus facilities without offering the same access to family partners of non-married students; and to require City contractors to comply with non-discrimination practices.

Finally, she stated that the Board must provide enforcement provisions so the Human Rights Commission can investigate complaints, and allow lawsuits; she added that a separate provision should allow non-traditional families to register their relationships and have them officially recognized, but with provisions for the safety of those who register.

Existing Laws & Policies

Roberta Achtenberg
Directing Attorney
Lesbian Rights Project, San Francisco

Ms. Achtenberg introduced the Lesbian Rights Project as a public interest law firm representing Lesbians and Gay men for 12 years, emphasizing their legal rights in forming, preserving, and protecting family relationships. One result of that experience was publishing "Recognizing Lesbian and Gay Families - Bargaining for Employment Benefits for Non-Marital Partners."

She stated that functioning family units take responsibility for the economic and emotional support of their members, without distinction of marital status or sexual orientation. However, existing laws and policies undermine the structure of non-marital families and erect barriers to their family life.

She asserted that these unrecognized families who have children pay twice for what others pay only once.

She gave examples from her litigative experience: a State employee who couldn't cover his partner for dental benefits, and their unsuccessful attempt to prove that this constituted a denial of equal pay. A Gay man had to prove his eligibility to receive unemployment insurance because he left his job to care for his partner dying of AIDS; a spouse's status, on the other hand, would have been presumed.

Ms. Achtenberg named West Hollywood, Santa Cruz, Berkeley, and the Berkeley Unified School District as having already passed

domestic partners legislation.

Steve Replogle
Risk Manager
City of Berkeley

Mr. Replogle spoke on his responsibility to administer and coordinate the City of Berkeley's Employee Benefit Programs which involves monitoring their Domestic Partners Policy. He said that the City of Berkeley eliminated marriage as a criterion for benefits, and provided domestic partner benefits starting in July 1985.

First, they provided health and dental benefits, then they offered all leave benefits to qualified domestic partners. Renegotiating health care plans with the city's providers took almost a year. One carrier refused to accept the concept and the City of Berkeley ceased doing business with them; two agreed at a premium increase of approximately 2.5%, effective January 1, 1987.

Berkeley has 1,400 employees; 108 are under its Domestic Partners Policy. Of that 108, 17 are Gays and Lesbians, 91 are heterosexuals.

Mr. Replogle said that the financial impact on the city has been insignificant, without adverse impact.

COMMISSIONER FERNANDEZ asked about the costs.

Mr. Replogle replied that the two carriers told him that with so few domestic partners under their plan, they couldn't accurately weigh the financial implications. However, there were

no abnormal increases in costs as they expected.

He also said that the City of Berkeley has other health plan features which make it different from San Francisco's proposed plan: Berkeley picks up the full cost, and will even pay an "in lieu" amount upon proof that another coverage is being obtained.

CHAIRPERSON MARTIN introduced MAYOR ART AGNOS. Mayor Agnos thanked the Commission for convening this hearing at his request, describing the issue as important. He explained that he regarded commission hearings as the best way to explore an issue with citizen participation.

MAYOR AGNOS asked Mr. Replogle what impact Berkeley's program has made on people's lives. Mr. Replogle said he had spoken with only a few of those covered, but that they all felt that the change was a tremendous improvement: many cannot otherwise obtain insurance. The City of Berkeley wanted to help fill the gap of lack of health coverage, and wanted to eliminate some bias and discrimination against unmarried couples.

Tom Brougham
City of Berkeley employee
Primary author, Berkeley Domestic Partner Ordinance

Mr. Brougham stated that he is an employee with a domestic partner covered by the City of Berkeley's plan, a past president of the East Bay Lesbian/Gay Democratic Club, and a member of the Peralta Community College Board, which is also considering a Domestic Partnership proposal raised by one of its unions.

The core of a 1979 petition to the City of Berkeley brought

by Mr. Brougham and others was that though the City took the state of marriage as a policy making criterion, it could in turn choose another, or a broader one. He traced the petition's evolution from its adoption as a policy in 1984 to 1987, when Kaiser and Heals agreed to honor full implementation of dental benefits and the in-house self-insured program.

Because the petitioners wanted all benefits for domestic partners which had become dependent upon marriage, they believed that strict criteria for granting benefits should be adopted, for fear that otherwise, the benefits may be lost by "leaking away" the City's resources. The result of this strictness is a fully implemented program in Berkeley, with no adverse selection.

Over the years, Mr. Brougham said, the City of San Francisco has decided to use marital status to determine who receives certain benefits. Thus, the fundamental question, he said, is whether or not it is satisfactory to give coverage to only some relationships, or to stop giving benefits to family members, or to augment the criteria of defining relationships.

COMMISSIONER GILLETTE asked what were the criteria to enter the program. Mr. Brougham said an affidavit, filed with the City, stating that the partners aren't married to anyone else, are over 18, are not related so closely as to bar marriage, are mentally competent to contract; it also requires that they attest that they live together as each other's sole domestic partner, and are responsible for each other's general welfare.

Thus, the relationship is ongoing, and not created for the

purpose of obtaining benefits.

COMMISSIONER CHINN asked whether the Berkeley community resisted the program. Mr. Brougham replied that over the eight years, it took enormous persistence because nobody would act on it. The decision was also made to pursue the idea politically, rather than through union negotiations.

COMMISSIONER FERNANDEZ asked for their definition of "ongoing," and with whom the affidavit is filed.

Mr. Brougham said that there was no waiting period, but that in terms of a post-relationship waiting period, they wrote in six months, to have a similar situation with remarriage after the divorce of a spouse.

The insurance companies asked for a statement that the partnership previously existed for at least a six month period, which was agreed to. There are also requirements in the policies that notice must be given if the relationship is dissolved, and that fraudulent claims could be grounds for the insurance companies to sue for recovery.

The affidavit is filed with the benefits package administration - the staff who normally administer the program. Also, forms have been modified to show married or domestic partners.

COMMISSIONER KAI asked whether Berkeley had extended its program to city contractors. Mr. Brougham stated that while he hadn't looked at this area a great deal, there were some differences. San Francisco, as a city and county, has

institutions - hospitals, jails, museums, etc. - which smaller cities don't have. As a charter city, San Francisco has powers which Berkeley does not.

Mr. Brougham expressed his own apprehension that while he wished to see the Domestic Partners benefits expanded, it was a fragile concept. He said a political backlash at the state capitol might ensue if powerful interests objected to providing these benefits.

COMMISSIONER LOCKHART asked whether proof was required that a couple had been in a relationship for six months; the answer was no, but that producing a marriage certificate to establish the fact of a marriage was not required, either.

Mr. Brougham also commented on the ratio of 91 heterosexual couples to 17 Gay/Lesbian couples. He suspected that before this legislation, most new employees simply said they were married to obtain benefits, since they probably knew that nobody checked. Thus, if you don't have Domestic Partners legislation, it is likely that many unmarried, heterosexual couples are going to "fudge their way in, and you're going to be taking care of them anyway."

COMMISSIONER GRAFF asked about the application of various types of alternative families: an adult child living with a widowed parent, perhaps with siblings; or a single mother, perhaps living with the sister-in-law of the divorced husband, for example.

Mr. Brougham clarified that all dependent children are

covered, anyway, and that Domestic Partnership doesn't speak to sexual or affectional relationships: it only requires them to declare the nature of their domestic situation.

When older relatives are considered, he stated that the practical problem was that no insurance or health maintenance organization allows employees to cover anyone significantly older than themselves. The system premise is that coverage is given to the able-bodied, their similarly-aged spouses, and to their children, who are substantially younger.

Children are very inexpensive to cover, and older people are very expensive to cover. The problem of health care in general is a separate issue from Domestic Partners, and a politically charged one.

Robert Zimmerman
Manager of Contract Administration
Kaiser Permanente Hospital, Oakland

Mr. Zimmerman stated that out of 2,100,000 enrolled members, only 18 are Domestic Partners enrolled, so it is difficult to draw statistically valid conclusions.

He observed that the Berkeley program is a refinement of what SUPERVISOR BRITT and his staff did in 1982; its fairness to all is what makes it work.

Mr. Zimmerman went on to address COMMISSIONER GRAFF's question by noting that the previous Mayor of San Francisco had asked a committee which he was on to examine several specific cases. One example was an employee whose adult daughter at age

30 becomes a quadriplegic and needs coverage. All of the carriers refused to consider a plan where they must provide coverage to any adult regardless of their age or health.

He also stated that when the restriction, "not related by blood or marriage," is taken out, carriers also lose interest.

MAYOR AGNOS asked whether carriers would consider such a plan if people were willing to pay the extra costs of, for example, the quadriplegic. Mr. Zimmerman responded that the actuaries would cost it out, and the consumer would pay for it.

MAYOR AGNOS also asked why including blood relations would destroy the program. Mr. Zimmerman replied that in doing this, parents, grandparents, elderly uncles, nieces, etc., can enter, which actuarially throws it off. For example, "if your mother is 72 and in desperate health, you're going to add her." The selection element - adding relatives who have the greatest need for health coverage - would drive up the costs.

The premiums would be so high if this were done, that nobody would be interested in buying the insurance, and the carriers were reluctant to calculate such a rate.

COMMISSIONER GRAFF asked how a rate was calculated for spouses in the very beginning; that during World War II, fringe benefits were introduced by employers to attract workers because wages and prices were controlled. Mr. Zimmerman said that initially, the employee paid all costs for himself and his spouse; the situation was different.

COMMISSIONER PIVNICK noted a San Francisco Chronicle article

about two women who lived together for 36 years: if they lived in Berkeley, would they be eligible under the existing regulations, and would their present ages be a factor?

Mr. Zimmerman said that if one was a City employee they could be covered, and their ages would not be a factor.

Matthew Coles
Staff Attorney
American Civil Liberties Union, San Francisco

Mr. Coles stated that defining families related by blood is not a problem; the problem has been to deal with relationships not defined by blood or marriage.

Two solutions have been tried. One, used by ACLU and the City of Santa Cruz, describes spouse equivalents. The other, used by West Hollywood and Berkeley, define criteria in considerable detail. Either way, there have been no problems reported.

From a personal perspective, Mr. Coles said that when he started with ACLU, the bookkeeper approached him to ask why his partner wasn't signed up for insurance. Such an acknowledgement by his employer made a strong positive impact upon him. Mr. Coles stressed that talking about benefits is important, but the most important aspect of this issue is recognition of alternative families.

Psycho-Social Dynamics of Non-Traditional Families

Phyllis Lyon and Del Martin
San Francisco

Mss. Lyon and Martin spoke about their experiences as domestic partners for 36 years, totally pooling all of their resources, and yet who are still legally "strangers."

They described their problems obtaining insurance in 1955: legally unrelated, they had to purchase two automobile insurance policies.

When they bought their house in 1955, they found a broker who would write joint tenancy insurance. However, they later found that although the home was held in joint tenancy, inheritance taxes would be assessed at the full value of the home unless the survivor proved she made half of the payments.

Over the years, their income taxes were higher because they couldn't file a joint return; their health insurance premiums were higher because one partner couldn't be covered at a reduced spousal rate.

As they approached retirement, they considered protection against catastrophic illness. They learned that if a spouse entered a nursing home, the couple would have to spend down to qualify for Medi-Cal, but the family home was exempt as long as the other spouse resided there. This protection did not apply to them.

They described the numerous legal documents they had to sign to give each other rights taken for granted by married partners:

durable power of attorney, wills and insurance policies.

While supporting Domestic Partners legislation, they expressed reservations that a public registration at City Hall could be abused by homophobes, unless kept confidential, as is done in Berkeley.

COMMISSIONER GILLETTE asked them to expound on their reservations; Ms. Martin replied that the City files could be used by homophobes to locate and abuse Gays and Lesbians.

COMMISSIONER CHINN asked what specific type of Domestic Partner program they supported. Ms. Lyon stated that the proposal was fine, but again, the problem was that of the affidavits being public. Ms. Lyons and Ms. Marton both expressed support for heterosexual couples also being allowed to register as Domestic Partners.

Ellen Helferd
Nurse Practitioner
Laguna Honda Adult Day Health Center

Ms. Helferd stated that she has been in a committed heterosexual relationship for 12 years, and has lived in a non-traditional family for 19 years.

As a heterosexual, she said she can pass as married; she has the option of lying to obtain benefits, or business promotions, or discounts.

However, those who can't lie or won't lie, or need proof of marriage, are in a different situation. She cited the case of an unmarried, interracial couple: when the man became incapacitated

from a stroke, his family took control of his care, moved him out of state, and she never saw him again.

In another situation, when a man died of drug abuse his family excluded his woman partner from all arrangements and the funeral.

Her own partner's union made him document proof of a relationship when his grandmother died; if her mother died, he would not receive benefits despite being very close with her mother. She also fears that if her partner becomes very ill or dies, his family could exclude her from decision making, his care, or funeral arrangements.

When one of them has been unemployed, the other has been unable to share medical benefits. Her car insurance was cancelled when she told the insurer of her non-traditional family of four responsible, working adults.

Her roommate of 19 years is not her partner; 17 years ago when her roommate was in labor, maternity nurses had Ms. Helferd expelled because she was not a blood relative.

She noted that Laguna Honda Adult Day Health Center doesn't make family/non-family distinctions, and recognizes that a supportive network of caring people keeps their clients alive and well.

COMMISSIONER GRAFF asked for her thoughts about registering relationships. She said that she would willingly register, noting that for Gays, the problem of prejudice would probably be more significant.

MAYOR AGNOS asked whether she would register from a need to validate her relationship, or simply to obtain rights; she didn't view it as validation, or else she would marry.

Larry Brinkin
Sexual Orientation Discrimination Representative
Human Rights Commission

Mr. Brinkin spoke about the passing of his partner, Richard, who died in 1981 after an 11 year relationship.

Mr. Brinkin's then employer of seven years was Southern Pacific Railroad. He had taken nearly two weeks off to grieve and prepare for the funeral; upon returning, he asked his employer for three days funeral leave.

This was refused, because he did not fit the company's definition of immediate family; instead, he was offered time off without pay. However, a co-worker had earlier received bereavement leave for the funeral of his stepmother, whom he had never met.

His union sided with the company; the President of the International told him that when they drew up the plan, it was done to specifically exclude relationships such as his and Richard's.

With ACLU assistance, he sued on the basis of sexual orientation and marital status discrimination. He lost in Superior Court and before the State Court of Appeals. Southern Pacific argued successfully that they had no way of knowing if this was a bona fide relationship, in spite of evidence of 11 years of shared bank accounts, credit cards, addresses, etc.

He thus endorsed the Domestic Partners legislation, which, as a City employee with a lover in a relationship for over five years, he wants. He stressed that benefits such as bereavement leave and health insurance are real human needs, not things that people ask for to be pampered.

Tom Weathered
Attorney, Legal Assistance for the Elderly

Mr. Weathered said he was asked to speak on federal benefits issues. Some benefits penalize marriage, such as the Supplemental Security Income Program: two unmarried people living together can receive about \$88.00 a month more in benefits than if they were married.

Similarly, Medi-Cal's maintenance need level for a single person is \$575.00, and for a married couple, it's \$874.00. Thus, these two programs create significant incentives for low income people to not marry; other programs, such as Public Housing, penalize them for marrying. He thinks these factors support domestic partners legislation.

COMMISSIONER KAI asked whether he observed any trends. Mr. Weathered responded that there was an increase in Lesbian and Gay couples asking for disability planning assistance.

Bill Bruckner
Independent Living Resource Center

Mr. Bruckner testified concerning issues pertaining to traditional families, domestic partnerships, and alternative families

with a disabled member. He said that the Independent Living Resource Center provides support and advocacy of services to disabled individuals, their families and partners; they serve more than 2500 people each year.

Any family with a disabled member faces additional needs and concerns: providing extended child-rearing, more assistance in daily living activities. These needs may render a parent or guardian unable to work, or increase the cost of child care if s/he does work. Also, insurance policies may have limitations and exclusions. Parents may be less able to attend to other, non-disabled siblings.

When a non-traditional family is in this situation, only the biological parent is entitled to parental leave and child care benefits, not the other partner, even if both are equally involved and responsible for the child's welfare.

And, if the biological parent becomes disabled or dies, the question arises: will the partner retain custody, or would a court place the child elsewhere?

Mr. Bruckner next addressed the growing population of elderly parents caring for disabled adult children; non-traditional relationships could have similar responsibilities and needs.

There were also situations where adults, who have progressive disabilities or who become disabled, needed to return to live with a relative, friend, or lover. If these families are "non-traditional," then who can receive benefits to care for the disabled member?

Finally, parents who are disabled have added needs, and are more likely to be at the poverty income level; he added that travel benefits such as companion fares should be made available to alternative family members.

Mr. Bruckner ended encouraging the Commissioners to recognize these needs when considering the Domestic Partners legislation.

MAYOR AGNOS asked if domestic partners of opposite sexes could marry to attain benefits, but if they choose not to marry, they would not receive benefits. Mr. Bruckner said that it depended upon the situation, but this was possible.

Allison Mierzykowski
Free Sharon Kowalski Committee

Ms. Mierzykowski summarized the Sharon Kowalski and Karen Thompson relationship. They had exchanged rings, bought a home together, and considered themselves married. However, in 1983, Ms. Kowalski was hit by a drunk driver, suffered a brain stem injury, and was in an extended coma.

Ms. Thompson was not recognized as a family relative by the hospital. She thus was given no information as to Ms. Kowalski's condition, nor could she participate in decisions concerning medical treatment.

Ms. Thompson worked with Ms. Kowalski eight to ten hours a day once she recovered from her coma. Despite diagnoses that Ms. Kowalski would remain a quadriplegic, she learned to communicate and care for herself due to this treatment.

However, Kowalski's father exercised control over her, and removed her from any contact with Ms. Thompson. The courts would later deny a lawsuit filed by the Minnesota Civil Liberties Union. Despite Ms. Kowalski's declarations that the two were Gay, were lovers, had exchanged rings, and that they wanted to live together, the courts ruled that Ms. Kowalski was incompetent, and that their relationship was landlord-tenant, based upon life insurance policies they had.

Presently, they can see each other, Ms. Thompson has input into her partner's rehabilitative care, and Ms. Kowalski can make her own decisions. However, this is under appeal.

Ms. Mierzykowski said that if they lived under a Domestic Partners law such as the one San Francisco is considering, Ms. Kowalski would have gone home four years ago, and not suffered from denial of her rights.

COMMISSIONER GRAFF noted that in the current legislative proposals, all would provide for visitation rights, but none would resolve the issue of decisions for health care treatment. This latter situation would require a Durable Power of Attorney.

Ms. Mierzykowski replied that Ms. Thompson has stated that if they had known of it, they would have used it for their protection. They were prepared for death, with the insurance policies, but not for disability.

Clint Hockenberry
Administrator, AIDS Legal Referral Panel

Mr. Hockenberry noted that this panel is a project of Bay Area Lawyers for Individual Freedom and the Bar Association of San Francisco. He has worked with approximately 5000 AIDS cases over the past three and one-half years. More than half involved hospital visits, Durable Powers of Attorney for Health Care, General Powers for financial affairs, wills, and other kinds of testamentary documents.

He also was married to a woman for five years, and has been lovers with a man for 14.

He said that many Gays hunger for legal recognition and protection of their relationships.

Mr. Hockenberry said he favors the National Gay Rights Advocates' proposal for its generality and coverage.

Discussing specific issues, he said that he has not received any complaints of bereavement leave discrimination against partners of deceased persons with AIDS, commenting that most companies either formally or informally have voluntarily expanded their concept. However, "most companies simply don't have a bereavement policy... and if you don't have a bereavement policy, then you discriminate against all people."

The important issue has been "the dozen or more complaints" from care givers of persons with AIDS, in which they must choose between jobs and providing for their loved ones. To his knowledge, none of the companies involved had any written policy

to address this need.

Concerning hospital authorization and visitation, he said California is one of 41 states permitting Durable Powers of Attorney for health care, giving both access to the patient and input on medical care decisions. His Panel has also prepared a one-paragraph hospital visitation form for use of patients who don't wish to use the power of attorney.

COMMISSIONER CHINN asked what additional rights and/or protections should be defined in the proposed legislation. Mr. Hockenberry responded that part of the problem is that the state government discriminates on the basis of marital status. Beyond that, one essential feature of City legislation should be health care benefits.

COMMISSIONER GRAFF endorsed the use of the documents alluded to by Mr. Hockenberry, and asked how he would suggest that these be publicized to minorities, the poor, and other potentially uninformed groups.

Mr. Hockenberry replied that each Gay or Lesbian organization, and every minority organization, could have a packet of materials. He endorsed the California Medical Association's Durable Power of Attorney form, which costs about \$1.00-1.50 per copy, and all social workers and health care providers have them.

Debra Moon
Intern, Lesbian/Gay and AIDS Unit
Human Rights Commission

Ms. Moon described her investigation of visitation policies

of San Francisco hospitals. She found that they are mostly enforced by verbal agreement, and that most hospital representatives she spoke with said that while written procedures limit visits of critically ill patients to family members only, they are not strictly followed. Further, several nurses said that strict adherence to the written policy is uncommon.

However, ultimate approval lies in the hands of doctors, nurses, and/or family spokespersons who may or may not choose to discriminate.

She cited St. Luke's Hospital for its written policy allowing members of the immediate family or significant others to visit in intensive care and cardiac care units. While "significant other" implies acceptance of domestic partners, the term is undefined, and, again, up to the medical staff to interpret.

Seton Hospital's written policy permits only close family visits to intensive care units and critical care units, based on patient consent, but its policy fails to define family member beyond blood or marriage, and a patient may not be able to express herself or himself because of physical or mental impairment.

Pacific Presbyterian Medical Center policies are not formally written, but employees receive a lecture, "Domestic Partners as Family Members," which makes domestic partners routinely welcome to visit, and to stay overnight if their partners need them.

She recommended a firm definition of Domestic Partnership regarding hospital policies.

Business Establishment/Public Accommodations

Robert Anderson, Ph.D.
Vice Chair, Economics Department
University of California at Berkeley

Dr. Anderson discussed the economic rationales for various business incentives, known as "price discrimination."

Many incentives are offered to family members. Typically, an airline will offer a large discount to a spouse accompanying a full-fare passenger. This makes economic sense, because few spouses would otherwise accompany a full-fare traveller, usually on a business trip, and the discount fills an extra seat while not harming its revenues.

The economics of childrens' discounts have a different rationale; discounts for extended family members are rare, and have different terms.

Dr. Anderson stated that it is difficult to construct an economic rationale for providing a discount to spouses while denying it to unmarried couples, and noted a federal law prohibiting discrimination to unmarried couples in granting mortgages has not created problems for businesses.

He further stated that it is very rare for a firm to require couples to submit proof of marriage, and that unmarried heterosexual couples likely take advantage of these programs "with considerable frequency"; however, homosexual couples are obviously unable to use them and therefore suffer an adverse impact.

Examining the airline industry, Dr. Anderson said that United

Airlines has given its Frequent Flier Program benefits to same-sex couples, and its rules state that they will make exceptions on a case-by-case basis. Another airline, however, refused a Gay member's request, although that airline allows transfers to distant relatives.

Umbrella liability insurance for home and auto owners can be purchased, but most companies insist that unmarried couples purchase two separate policies at nearly double the premium.

State Farm and California State Automobile Association, each in response to a lawsuit, have agreed to issue joint policies or memberships.

Otherwise, "(i)t is virtually impossible for a Gay man or a Lesbian to purchase a life insurance policy naming his or her lover as a beneficiary," and agents advise applicants to use "a degrading subterfuge" of naming a relative on the initial application, then changing the beneficiary after the policy is issued.

Dr. Anderson concluded that unmarried couples, particularly Lesbian and Gay couples, suffer severe discrimination from businesses, and further, that there is no compelling economic rationale for this discrimination.

COMMISSIONER GRAFF asked whether it was fair to say that the unmarried couples and singles are subsidizing the married couples' benefits.

Dr. Anderson said that this was true in some cases; in others, the arrangement denied an economic arrangement which would benefit the entire society. He discussed the economic

theory of "efficiency," and how certain incentive programs can promote efficiency to the extent that they are denied to some, and that there can be losses of efficiency to the greater society if individuals are denied access.

COMMISSIONER GRAFF asked whether the losses are so great as to constitute unconscionable discrimination and need to be outlawed. Dr. Anderson said that society would benefit economically if many of those practices were eliminated, but whether any are unconscionable practices is a political and social question.

Real Estate and Rentals

Vivian Hammill, J.D.
Commissioner
Residential Rent Stabilization and Arbitration Board

Ms. Hammill said that the rent ordinance is virtually "marital status neutral," and that regardless of what form Domestic Partnership legislation takes, it will have no impact on the rent ordinance.

She distinguished the ordinance from the New York ordinance, which allowed for a rental unit to be inherited.

COMMISSIONER CHINN asked whether, as an attorney, Ms. Hammill could comment on the Domestic Partners legislation involving extended family benefits.

Ms. Hammill replied that most of the problems she encounters would require amending the State Probate Code or the State Family Law Act, which the City cannot affect.



Bess Dolmo
Member, Student Senate
University of California, Berkeley

Ms. Dolmo, stating that the history of the United States was a continual struggle to achieve basic human rights, said that at the UC-Berkeley campus, with Chancellor Ira M. Heyman's assurances of support, the student government organized a Domestic Partnership Program. However, the Chancellor then rejected the proposed program. The Housing Department refused to acknowledge their rights, holding to the marriage requirement.

Ms. Dolmo asserted that people deserve human rights, benefits at work, and equality in campus housing.

Labor and Religion

Steve Neuberger
Political & Legislative Director
United Public Employees, Local 790
Service Employees International Union

Mr. Neuberger, on behalf of 8000 City employees, said Local 790 and the SEIU strongly support the concept of Domestic Partnership. The status of a Gay or Lesbian couple is even more limited than that of workers wishing to organize in the Reagan/-Bush era, their legal and social status is unrecognized, and they enjoy none of the rights and benefits accruing from such status. Discrimination against Domestic Partners is as wrong as race- or sex-based wage discrimination.

He noted that Local 790 represents City of Berkeley workers and the Domestic Partners legislation has worked well there.

Mr. Neuberger said that San Francisco's current commitment to the health of its employees' families is a disgrace. He said that of 40 cities and counties in the state San Francisco surveys for compensation purposes, only two besides San Francisco fail to provide dependent health coverage. In the five Bay Area counties, only San Francisco pays nothing towards dependent health care.

Whereas other Bay Area counties pay an average of \$130 per employee per month for dependent health care, and Berkeley pays \$150, San Francisco's employees pay the entire burden. Mr. Neuberger said that all City workers' families should be recognized and validated, and have affordable health care.

MAYOR AGNOS asked whether prior testimony was correct in stating that in Berkeley the unions didn't want to become involved.

Mr. Brougham clarified that the union wrote a letter of support, the issue was included in contract negotiations, but was dropped; after the policy was provided, the contract was amended.

Rabbi Allen Bennett
Associate Director
American Jewish Congress in California
former member, Human Rights Commission

Rabbi Bennett formerly chaired the HRC Lesbian and Gay Advisory Committee; previous to working at the AJC, he was the first Rabbi of Congregation Ahavat Shalom, the first San Francisco synagogue with a specific outreach to the Lesbian and

Gay community.

He cautioned that while he is an ordained Rabbi, he was not speaking on behalf of Judaism.

He first addressed the issue of "the assumed perspective of organized religion" on the concepts of Domestic Partnership, marital status, and extended family. Historically, Judaism recognized the importance of the extended family, beyond the simple context of blood relations: once an individual was acknowledged by the family as a member, s/he received family rights and privileges specified by Jewish law, depending on the nature of the relationship.

Second, Rabbi Bennett addressed marital status. Historically, Judaism always regarded marriage as one of its highest values, but "the concepts on which the State bases its laws are late ... and idiosyncratic interpretations of the original ideas from Jewish law." Polygamy in Biblical times was considered normal.

In Talmudic times, an engaged couple could cohabit so long as eventual marriage was intended; their rights were close to what a married couple would enjoy.

Finally, Domestic Partnership was foreign to ancient systems. No civil law existed then; under religious law, one was either married or not. When civil law emerged, a new aspect was created.

Religion in the United States has no right to claim authority in civil matters; it thus cannot fairly claim to do so in this



particular instance.

Rabbi Bennett said that religion, by logical extension of its religious or moral codes, could offer the benefit of making suggestions. But religious leaders cannot, may not, and must not expect that their attitudes could run civil government.

Thus, Rabbi Bennett offered his interpretation of what contemporary, liberal Judaism would offer to this specific situation. First, Judaism affirms committed relationships, however defined. Regardless of any other factors, if partners intend to have a committed relationship, then they must receive the same freedoms, opportunities, and rights, and they must bear the same restrictions and responsibilities as any other in a committed relationship.

Thus, the State must not turn to religion to decide what is in its citizens' best interests. As long as our government claims to provide equal opportunities and responsibilities, then it should do that without regard to whether decisions meet with universal religious approval.

Using that guideline, unmarried couples in a committed relationship should receive the same benefits as are now allowed to only married couples.

He acknowledged a potential problem in equitably defining "committed relationship," and suggested religious input could be helpful so long as civil leaders do not feel bound to accept religious definitions.

Finally, Rabbi Bennett distinguished between American

democracy and Western religion: the latter was not founded on the basis of equal rights and responsibilities and may not be the best source of knowledge in modern times.

COMMISSIONER KAI asked his view of the certification process, in view of earlier testimony that it may expose people to danger. Rabbi Bennett stated that a couple may obtain a confidential marriage license, and thus, a confidential system for partnership registration could be created.

George Wesolek
Peace and Justice Commission
Archdiocese of San Francisco

Mr. Wesolek spoke against official recognition of Domestic Partnerships. He stated that marriage and family represent deep, sacred, and abiding values for many residents of and immigrants to San Francisco.

Roman Catholics regard family and marriage as sacred, not casual, institutions, and oppose their erosion; putting Domestic Partnership on a par with marriage would erode marriage, and they will oppose any such law.

Furthermore, Domestic Partnership in some of its forms appears to legitimize temporary or transient relationships, which would "further weaken the already wounded family," and contributes to many of society's ills.

He did support compassionate efforts in benefit systems, such as to provide for bereavement or other leave to care for the sick, as long as the family and marriage are not eroded in any

way.

COMMISSIONER GRAFF asked upon what basis he asserted that the legislation would erode marriage. Mr. Wesolek responded that the written proposals he had seen set up another track which would erode marriage, "what we consider a very basic tenet of our society."

COMMISSIONER CHINN asked what legal or civil rights he would limit. Mr. Wesolek endorsed the approach of Catholic Charities, which offers some of the benefits mentioned during the hearing.

MAYOR AGNOS praised Mr. Wesolek's offering his voice when being in a clear minority of the audience, and praised the audience for respecting his point of view, as "in the San Francisco tradition."

The Mayor asked Mr. Wesolek to clarify his point that allowing Domestic Partners benefits, as in Berkeley, would compete with the sanctity of marriage.

Mr. Wesolek said that wasn't exactly the erosion. Certain issues, such as hospital visitation rights and bereavement leave, are good things which the City should address. However, on a subtler level, this legislation enters a new realm in which difficult-to-define relationships are allowed; the only definitions he has heard give them the same legitimacy as marriage.

The Mayor asked whether using the word "respect" in domestic partnership legislation would be objectionable; Mr. Wesolek responded that it would not, although it depended on the final



wording of the legislation.

COMMISSIONER KAI asked about his objections to a registration plan. Mr. Wesolek replied that his goal that evening was to represent the Catholic position in broad strokes and he couldn't address specifics.

COMMISSIONER LOCKHART asked if it was correct to say that if a system were created to give one group of people benefits now confined only to the married, would this in itself erode the sanctity of marriage and family?

Mr. Wesolek said he wasn't concerned with the benefits part of the issue, only the setting up of a legal alternative to marriage.

COMMISSIONER GRAFF referred to the Lesbian couple of 36 years, and asked if there was objection to this type of relationship. Mr. Wesolek acknowledged many Gay couples are committed to each other, but that wasn't the issue; it was the opportunity of ending a relationship of only six months by simply writing a letter to the Registrar rescinding the relationship: this was very vague and loose to him.

COMMISSIONER GRAFF asked if he was aware that this language tracks the current California divorce law code; he was.

COMMISSIONER FERNANDEZ asked if he would be more comfortable with a longer period than six months; was it a question of time, or of non-heterosexual relationships. Mr. Wesolek replied affirmatively.

MAYOR AGNOS asked, in reference to the 36-year Lesbian

couple, that if one were a city employee, and thus the other were granted benefits, would that threaten marriage? When Mr. Wesolek replied that he didn't think so, the Mayor asked whether it might simply be a problem of drafting language which would make him comfortable: not as an analogue to marriage, but as an employee benefit.

Mr. Wesolek again recommended the Catholic Charities approach.

The Mayor asked whether the objection was to the number of benefits extended: Catholic Charities gave three, what if the City gave one or two dozen? Mr. Wesolek said it was more the registration.

COMMISSIONER GILLETTE referred to the Catholic Charities material, giving benefits to a person in the employee's household for whom the employee is responsible, and for a friend.

Reverend Jim Mitulski
Pastor, Metropolitan Community Church, San Francisco

Rev. Mitulski identified his church as being located on Eureka Street in the Castro, the largest and oldest Lesbian and Gay church, doing all the things churches do, and serving as a community center for over 50 groups.

He recited marriage vows spoken by Lesbian and Gay couples in his church for 20 years; in the past three years, he has officiated at over 200 such weddings. The participants have done so not to please their parents, as he was warned in seminary, but

to make "their commitment to one another intentionally, bravely, courageously..." in a way that changed the hearts and minds of many family witnesses.

He stated that Lesbian and Gay relationships are as sacred, as honorable, and as precious to God as heterosexual relationships. While Domestic Partnership legislation wouldn't change that fact, he supported it.

He ended his presentation with a passage from the Book of Ruth, a statement of mutual love in God's eyes between two women - which he described as "an alternative family, an alternative couple."

COMMISSIONER GRAFF, commenting on various proposals for registering and dissolving partnerships, asked if his church has a mechanism for dissolving a union.

Rev. Mitulski acknowledged that, unlike most pastors, he counseled partners to live together before marriage to understand the nature of their commitment, so very few wish to divorce.

Those who wish to divorce receive a Certificate of Dissolution.

COMMISSIONER GILLETTE asked to what extent the 200 couples he had married were legal marriages. Rev. Mitulski said that they are not illegal, as they are religious, but that they have no legal standing.

MAYOR AGNOS asked whether he thought Domestic Partners was a substitute for the marriage ceremony. Rev. Mitulski replied, "No, only a marriage ceremony is a marriage ceremony."

General Public Testimony

Jean Harris

Lesbian Agenda for Action, San Francisco

Ms. Harris described the Lesbian Agenda for Action as a political organization to give Lesbians visibility, support a progressive agenda, and be anti-racist. Her organization supports Domestic Partners legislations, and supports a task force to look at extended families as well as health benefits. They want recognition of Gay and Lesbian couples as a recognized and valued type of extended family.

She said she is a mother who, 13 years ago, lost custody of her two daughters, because Lesbian couples weren't considered legitimate parents. She has had many other experiences in various situations, such as in hospitals, because she and her lover are Lesbians.

Pam David

Issues Chair

Alice B. Toklas Lesbian & Gay Democratic Club, San Francisco

Ms. David stated that the refusal of societies to recognize Gay and Lesbian relationships has been a cornerstone of oppression against them throughout history. She countered that by stating that every single attempt to forge stable and loving relationships must be defended and supported with all of our resources.

Also, throughout history, many families do not fit the man-woman-children mold, such as extended families, single parent

homes, children raised by grandparents, etc.

Thus, Domestic Partnership legislation addresses two historic necessities: recognizing the natural diversity of humankind and of human sexuality, and the natural diversity of the human family. It is a matter of extending basic rights and liberties to those who have been denied.

Richard Gordon

Mr. Gordon expressed support for a Domestic Partners ordinance.

In his opinion, a relationship has as many as three elements: sharing a household, mutual financial responsibilities, and care and concern. Marriage provides a "kind of default condition" whereby one will inherit from the other.

In his own relationship of nearly four years, he feels that a domestic partners program would be helpful.

COMMISSIONER GRAFF asked what would be most important to him in the proposed legislation: eligibility for a certain benefit, government recognition, or something else?

Mr. Gordon said that recognition is emotionally important, but the question to him is access to benefits, not the benefits themselves. He personally agreed with the City of San Francisco not paying for any dependent health care, but felt that people should be able to add their dependents at their own expense.

Nancy Kitz
City employee

Ms. Kitz further identified herself as a member of the Harvey Milk Gay and Lesbian Democratic Club.

She spoke on the feeling of being "on the outside looking in" as Gays and Lesbians have struggled for acceptance in San Francisco, while rejuvenating communities and neighborhoods.

In spite of their contributions and their struggles, San Francisco has never recognized or honored what makes them different, their unions with the same sex partners.

City-provided employee benefits should include making health benefits and bereavement leave available to domestic partners. She said that current legislative drafts don't provide health benefits, and wondered if the specter of AIDS and the reaction of insurance companies was the reason. She also pointed out that Gay and Lesbian workers have subsidized the benefits of heterosexual couples, and asked how much money the City has saved by denying such benefits.

Her reading of the Charter Administrative Code indicated that the Board of Supervisors must pass a Charter Amendment to allow health benefits for domestic partners, and urged Supervisor Britt to amend his ordinance to provide these benefits.

Todd Hill
Vice President
Harvey Milk Lesbian and Gay Democratic Club

Mr. Hill stated that his club supports the legislation, and

spoke on the broader human rights implications.

While Gay and Lesbian rights of employment and housing are fortunately acknowledged in San Francisco, the rest of the country and the world is "viciously homophobic, viciously heterosexist, and these daily realities are a part of our lives." Also, their lack of rights and privileges as given to heterosexual marriages makes them invisible in society's eyes. It is important that the City recognize the right of the Lesbian and Gay community to love and care for each other.

Lester Olmstead-Rose

Mr. Olmstead-Rose mentioned that he is a member of the HRC Lesbian/Gay Advisory Committee, and a member of the Alice B. Toklas Lesbian/Gay Democratic Club.

He said that he was personally hurt to be told that his care and affection for his lover erodes the family; he felt offended that his Gay relationship be branded as responsible for eroding the family and civilization.

His lover is his family, and they're even planning for the well-being of his partner's mother in her aged years.

On the issue of signing a public affidavit, he would feel no fear, as he is "very openly Gay."

He ended with an anecdote: that to obtain California State Automobile Association road service, rather than pay twice or pay more, he became "Mrs. Rose Olmstead," but didn't like having to make that choice.

Brian Mavrogeorge

Mr. Mavrogeorge said he spoke as an individual, but was also the past president of Log Cabin (formerly Concerned Republicans for Individual Rights), and a member of the Republican County Central Committee.

The week before, he and his spouse celebrated their 25th anniversary; during the first 16 years of their relationship they "lived in sin," but then they went to the Metropolitan Community Church for a religious ceremony that meant very much, and Mr. Mavrogeorge took his spouse's surname.

He didn't need a marriage license to validate his relationship: his religious framework and his day to day relationship with his spouse did that.

However, Domestic Partnership is a simple matter of justice, not a budget item. Quibbles about administration and money are immaterial, therefore. The important thing is that meaningful, committed relationships of any type deserve society's encouragement.

(end of testimony)

CHAIRPERSON MARTIN thanked the public for its participation, the staff for its work, Supervisors' President Britt for testifying, the Commissioners, the Mayor, and Director Jamero.

MAYOR AGNOS thanked the Commissioners and staff for "one of the best hearings I've ever been to, in some 18 years in politics," and congratulated Ms. Winnow, Mr. Nickens, Mr.



Brinkin, and the interns.

B. Written Testimony

Written testimony was received from three individuals:

Mary Lou Goeke
Executive Director
Catholic Charities
Archdiocese of San Francisco

Ms. Goeke submitted the text of various sections of her organization's collective bargaining agreement with Social Services Union Local 535, SEIU.

Section XI. F. states that any employee may use his/her sick leave to care for "an ill spouse, child, parents, other relatives or persons in the employee's household for whom the employee is responsible."

Section XI. G. provides that "(i)n the event of a death in the family or the death of a friend, the employee may use sick leave to attend the funeral or attend to matters related thereto."

Ms. Goeke states that definitions of covered persons in the above-cited sections are "left to the discretion of the employee." She added that for health insurance, the agency pays the employees' coverage, and employees may at their own expense enroll "their spouses and children"; for dental coverage, the agency pays for employees' and childrens' coverage.

Antonio A. Feliz
Publisher, Aurora Press, San Francisco

Mr. Feliz, in a letter addressed to Commissioner Chinn, wrote as a former minister for over ten years in the Temples of The Church of Jesus Christ of Latter-day Saints, and as one who continues as a spiritual consultant to Gay and Lesbian Mormons.

He cited his recent book, **Out of the Bishop's Closet**, which discusses his experiences in attempting to determine why his church no longer "seals" men to men as originally done by its founder, Joseph Smith, starting in 1842.

He enclosed a four page position paper written for the HRC hearings. It called for extending equality to Gay, Lesbian, and Bisexual communities in the laws governing marriage licensure, comparing them to ghettoization of ethnic minorities.

The paper discussed a linkage the author perceived between such laws, health and the AIDS crisis, and stress upon the human immune system.

It cited research evidence to the effect that homosexuality has biological and genetic origins, and that religious institutions, including Mormonism, have rejected this in favor of monogamous and heterosexual criteria. He traced the historical evolution of this trend in his Church to its attempt to standardize its practices to the anti-bigamy laws passed in the 1870s, which caused Gay, Lesbian, and Bisexual Mormons to choose between their relationships and excommunication.

The rights of Gays, Lesbians, and Bisexuals to marry is a

human rights, health, religious rights, and civil rights issue, and the collaboration between church and state in passing marriage licensure laws constitutes religious discrimination.

Diana J. Oswald
San Francisco

Ms. Oswald wrote to cite UFCW Local 410R's collective bargaining agreements with five employers providing for bereavement leave to domestic partners, noted that a sixth employer allows bereavement leave for roommates, that a seventh employer refuses to agree to any form of domestic partnership language, and that an eighth employer's agreement states it will comply with domestic partnership laws when and if such legislation is passed. She ended by saying that in these contracts, domestic partners are listed among immediate family.

Chapter Three

FINDINGS AND RECOMMENDATIONS

The Human Rights Commission, having conducted a public hearing on March 8, 1989 to study the concepts of domestic partnership benefits, marital status, extended family policies, and the impact of current restrictions of such benefits to certain groups (heterosexual married persons) on the people of San Francisco, hereby submits its findings and recommendations, based upon oral and written testimony at the Public Hearing.

A. Findings

1. That the City and County of San Francisco, by legislation, policy and practice, has consistently refused to tolerate discrimination based upon sexual orientation;
2. That de facto and de jure discrimination do currently exist in the City and County of San Francisco with regard to domestic partnerships and extended families whether or not related by blood or marriage;
3. That Lesbian/Gay couples, domestic partnerships, and extended families have systematically and institutionally been denied the right to be treated with respect and equity under the law as accorded to heterosexual citizens who engage in legal marriage sanctioned by the State;
4. That members of domestic partnerships and extended families

have demonstrated their commitment and responsibility for each others' health and welfare in all areas of life as have heterosexual marriages and blood relationships, and the functional issues of family life do not recognize and are not contingent upon the marital status of the adults of the family and that those taking responsibility for the emotional and economic needs of their families do not know distinctions between legal marriage and non-marriage, nor a particular sexual orientation;

5. That although domestic partnerships affect Lesbians and Gay men, many different family units and family needs can be addressed by changes in legislation;
6. That existing laws and policies undermine the structure of non-marital families and erect economic, psychological and social impediments to rich constructive family life. This kind of family life is in the State's best interest to encourage;
7. That freedom to form primary relationships is a fundamental human right;
8. That children of domestic partnerships and extended families not related by blood or marriage suffer undue hardship by virtue of discrimination against the adults responsible for their care;
9. That the City and County of San Francisco does have within its purview the means to develop remedies for discrimination because of domestic partnerships without undue fiscal burden

as has been demonstrated by both business policy and civil law in this and other communities;

10. That legislation and programs have been enacted in other locations which impact on non-married people. From these test cases, we already know that:

- a. from testimony relative to the program in Berkeley we heard that the financial impact has been "insignificant" in Berkeley, even though the City pays for employee health benefits.
- b. it is possible to find health carriers who will implement domestic partnership plans. Because the programs are still new, the financial impact remains unknown; however, current findings show no negative impact.
- c. although domestic partnerships mimic the same population as married couples, insurance providers have indicated that they would be unduly fiscally burdened by adding on extended family members and would not do that.
- d. fair and well-defined definitions of domestic partnership aid in the success of domestic partnership plans. Legislation need not say anything about sexual or affectional orientation.
- e. domestic partner plans have had a tremendous positive impact on the lives of employees.
- f. current federal law, which forbids economic discrimination in mortgages to unmarried people, causes no problems for lenders.

g. various businesses have already ended economic discrimination successfully against non-married couples in specific programs, e.g., United Airlines in family travel discounts, State Farm Insurance, and AAA of Southern California;

11. That there are many economic effects to being married or not being married, such as:

- a. it is difficult to collect benefits in order to leave work to care for an ill, unmarried partner (benefits which are presumed for a spouse).
- b. certain services may cost more for unmarried couples, such as house and car insurance.
- c. tax liability is dependent upon marital status.
- d. many citizens are forced to make a choice between honesty and benefits. Non-married heterosexual testifiers confessed "lies" they made in order to enjoy or purchase services.
- e. sometimes unmarried couples are actually subsidizing married couples when businesses offer "married couples discounts." In other situations, these discounts are paid for by savings in economies of scale, but there is no economic reason to discriminate between married and unmarried couples.
- f. married employees enjoy more rights and compensated benefits than those in a domestic partnership, thereby creating a disparity in rights and privileges and may

- create animosity among employees and management;
12. That legislation be drafted carefully so that there is no federal or state pre-emption;
 13. That there are reasonable fears that the use of public affidavits for creating domestic partnerships may be used to jeopardize Lesbians and Gay men. There is a need for confidentiality and a privacy option;
 14. That organized religion does not speak with one voice, but generally agree on the inequities imposed by unequal benefits. Regardless, this is a civil matter;
 15. That choices concerning grave illness, incapacitation, and death decisions are limited because of policies which do not recognize non-traditional families.
 - a. domestic partners have not been granted bereavement leave when long-time partners have died.
 - b. domestic partners have not been able to keep children raised jointly when the legal parent has died or become disabled.
 - c. domestic partners have not been able to make health decisions for incapacitated partners.
 - d. current hospital visitation protocols often give power to doctors and nurses in allowing visits from domestic partners;
 16. That due to marital discrimination, some elderly persons feel forced not to marry in order to protect their benefits;
 17. That families with disabled members have additional needs and

concerns, including extended child-rearing periods, and more on-going day-to-day care. Many disabled persons live in households with other disabled persons and attendants; and

18. That there is a need to actively seek legal rights for couples that do not or cannot marry. These rights, which are granted automatically by marriage, can be obtained through seeking durable power of attorney, appropriate wills, designated insurance beneficiary, and other means.

B. Recommendations

That the City and County of San Francisco enact legislation rectifying discrimination on account of domestic partnerships, marital status, or extended family status and set policy that recognizes the diversity of San Francisco families; and that staff and resources be given to the Human Rights Commission and other appropriate City agencies to administer the non-discrimination aspects of the legislation.

The City should consider the following when enacting legislation and/or policy:

1. That legislation and/or policies cover all aspects of City employment policies, City family and social service policy, and the enforcement and enjoyment of the City's goods and services;
2. That the City should seek to find out if jurisdiction exists to impact the private sector to ensure leave policies, visitation rights, real estate and rental rights, non-

discrimination by business establishments and public accommodations. If such jurisdiction does exist, these should be written into the legislation and/or policy;

3. That the identification of domestic partnerships and extended families be undertaken in a manner that does not abridge civil liberties and that offers protection to all parties involved;
4. That the City and County provide a definition of domestic partnership and extended families which is inclusive in its letter and intent;
5. That the City and County develop enforcement provisions to ensure the implementation of its legislation wherever legally possible;
6. That the Health Service System be requested to convene a task force to determine needs, and feasibility of adding domestic partners and/or other relationships, to city health benefit plans;
7. That the City produce and distribute information and resource materials for non-traditional families concerning their legal rights in the areas of wills, durable powers of medical attorney, living together agreements, etc.

APPENDICES

PUBLIC HEARINGS

San Francisco Human Rights Commission

DOMESTIC PARTNERSHIP MARITAL STATUS EXTENDED FAMILY POLICIES

Public Testimony will be heard:

Date: March 8 (Wednesday)

Time: 6:00 - 9:00 p.m.

Place: State Building, Room 1194
350 McAllister San Francisco

Agenda:

Introduction to the Hearings
Existing Laws and Policies: How They Work
Non-Traditional Families: Psycho/Social Dynamics
Leave Policies and Visitation Issues
Business Establishments
Real Estate and Rental
Labor/Corporate/Religious
Testimony from the General Public (sign-up at Hearing)

Because of the large number of people who wish to testify, oral testimony by both individuals and organizations will be limited. If possible, we would appreciate your testimony in writing, whether or not you testify orally. Written testimony may contain more detailed information than oral testimony time limitations allow. These written statements will be part of the official record.

For further information, please contact Jackie Winnow, Larry Brinkin, or Norm Nickens at 558-4901.

- Wheelchair Accessible
(entrance on Larkin Street - between Golden Gate & Larkin)
- Sign Language Interpreted



APPENDIX B

NEWS RELEASE

February 17, 1989
FOR IMMEDIATE RELEASE
For more information contact:
Larry Brinkin or Jackie Winnow
415-558-4901

HUMAN RIGHTS COMMISSION ANNOUNCES
PUBLIC HEARINGS ON
DOMESTIC PARTNER/MARITAL STATUS/EXTENDED FAMILY POLICIES

The San Francisco Human Rights Commission today announced a public hearing focusing on the areas of domestic partner benefits, extended family policy, and marital status discrimination. The hearing takes place on Wednesday, March 8, 1989, at the State Building, 350 McAllister, Room 1194, San Francisco, from 6:00 to 9:30 p.m. Highlighting the hearing will be remarks from Mayor Art Agnos and Board of Supervisors President Harry Britt, who will each discuss proposals for City policy.

The public hearing will provide a forum for the community to air its views on both the need for legislation covering alternative family policy, and ideas for what the legislation should contain. Since different proposals have been made in the area of broadening family benefits, this hearing will give the Commissioners and the public a chance to hear diverse experiences and ideas. The hearing will not be a debate on particular legislation; it will instead be a broad airing of commentary on the needs and rights of alternative and extended families. The testimony will have a strong impact on legislation that will come before the Board of Supervisors in the near future.

(more)

Following the remarks by Mayor Agnos and Supervisor Britt, speakers will discuss how they have been affected by living in alternative families, in terms of inequalities in benefits and policies. The Commissioners also will be hearing from experts on these issues, including representatives of municipalities (such as City of Berkeley) and businesses with existing alternative family plans and policies. Also speaking will be representatives of social service agencies, the insurance industry, business and labor, social policy activists, the Lesbian/Gay community, religious clergy and laity, minority communities, educational institutions, etc. Following the scheduled speakers, there will be time set aside for the public to speak. Testimony may be submitted in writing and/or given in person on March 8. "The Commission is looking forward to examining the concepts of domestic partner benefits, extended family policies and marital status discrimination," says Commission Chair Lawrence B. Martin, "and we are interested in hearing about the obstacles which alternative families face. We are hoping that the community will come to the public hearing and share their information with us."

Workers and citizens in San Francisco who live in alternative family situations are denied many benefits enjoyed by traditional married couples. Many people in today's world are members of families consisting of themselves and a "domestic partner" (also referred to as a "significant other"), of the same or opposite sex; these couples share the commitment and necessities of life of any couple, but the lack of a marriage license may stand in the way of equality of benefits. Similarly, one may live with a brother or an aunt and yet have no support or recognition that this, too, is a family.

Examples of benefits that are commonly denied non-traditional families include bereavement leave to grieve for a deceased partner; family sick leave

(more)

to care for a partner who is ill; the right to visit one's partner in a hospital Intensive Care Unit; the right to live in university housing reserved for married couples; and the ability to be covered as a family member on a partner's health insurance plan or retirement plan. According to HRC staff person and public hearing coordinator Jackie Winnow, "The issue of domestic partner and extended family policy is an issue of equal rights -- the right to equality in benefits at work and in family policy at other levels of society."

The public hearing will be wheelchair accessible and sign language interpreted. Please contact Larry Brinkin or Jackie Winnow at 558-4901 for more information.

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City and County of San Francisco

Human Rights Commission

Office of Minority/Women Business Enterprise

Office of Contract Compliance

Office of Dispute Resolution



Schedule for Domestic Partnership/
Marital Status/Extended Family Policies
Public Hearings - March 8, 1989

<u>Section</u>	<u>Time</u>
<u>Introduction</u>	6:00 - 6:30
Commissioner Lawrence Martin	
Director Peter Jamero	
Jackie Winnow	
Supervisor Harry Britt	(7 min each)
Cynthia Goldstein, atty, National Gay Rights Advocates	
<u>Existing Laws and Policies: How They Work</u>	6:30 - 7:15
Roberta Achtenberg, atty: Legal Overview & Introduction	
Steve Replogle, City of Berkeley Risk Manager	
Tom Brougham, City of Berkeley employee and co-author of program	(5 min. each)
Robert Zimmerman, Kaiser Hospital, Health Provider	
Matt Coles, atty with American Civil Liberties Union, their policy and synopsis of other laws and policies	
Announcement of General Public Speakers	
<u>Non-Traditional Families: Psycho-Social Dynamics</u>	7:15 - 7:45
Phyllis Lyon and Del Martin, Lesbian/Gay	
Ellen Helferd, Heterosexual	
Larry Brinkin, Bereavement Leave	(4 min. each)
Tom Weathered, atty for Legal Assistance for the Elderly	
Bill Bruckner, Independent Living Resource Center, Disability	
BREAK	
	7:45 - 8:00
<u>Leave Policies and Visitation Issues</u>	8:00 - 8:15
Allison Mierzykowski, Sharon Kowalski Committee	
Clint Hockenberry, atty, AIDS Legal Referral Panel	(4 min. each)
Debra Moon, HRC Intern, Hospital Visitation Survey	
<u>Business Establishments/Public Accommodations</u>	8:15 - 8:20
Robert Anderson, Ph.D., Economics Professor, U.C. Berkeley	(4 min. each)

Page Two
Schedule
Domestic Partners Hearing

Real Estate

8:20 - 8:30

Commissioner Vivian Hammill, atty, Housing
Bess Dolmo, Student Senator, UC Berkeley,
Student Housing

(4 min. each)

Labor/Religious

8:30 - 9:00

Steve Neuberger, Local 790
Rabbi Allen Bennett
George Wesolek, Catholic Archdiocese
Rev. Jim Mitulski, Metropolitan Community Church

(4 min. each)

BREAK 9:00 - 9:10

General Public

9:10 - 10:10
(3 min. each)

Schedule subject to change.

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City and County of San Francisco

Human Rights Commission

Office of Minority/Women Business Enterprise

Office of Contract Compliance

Office of Dispute Resolution



NEWS RELEASE

April 21, 1989

FOR IMMEDIATE RELEASE

For more information contact:

Larry Brinkin or Jackie Winnow

(415) 558-4901

HUMAN RIGHTS COMMISSION ANNOUNCES
FINDINGS AND RECOMMENDATIONS
ON DOMESTIC PARTNER/MARITAL STATUS/
EXTENDED FAMILY POLICIES

The San Francisco Human Rights Commission announced today its findings and recommendations based on the public hearing held March 8, 1989 on Domestic Partnership Benefits/Marital Status/Extended Family Policies. The findings and recommendations have been sent to the Board of Supervisors and Mayor Art Agnos for their consideration in drafting domestic partner legislation.

The public hearing focused on the diverse family situations of San Franciscans, the need for public policies that recognize the validity of non-traditional and extended families, and the discrimination those families face in society's benefits and services.

The findings and recommendations announced today by the Human Rights Commission include:

- That S.F. has a history of officially refusing to tolerate discrimination based on sexual orientation. However, discrimination, in practice as well as by law, does exist, and affects those in non-traditional family units.

(more)

- That Lesbian/Gay couples and extended families have not been treated equally with married heterosexual citizens in terms of benefits and services.
- That domestic partners have demonstrated commitment equal to that of heterosexual married couples.
- That the existing laws and policies undermine family life for non-traditional families.
- That City policies should be written to assist in identifying domestic partners, and that resources and information concerning their legal rights be made available.
- That the Health Service System Board be requested to convene a task force to determine feasibility of adding domestic partners or extended family members to City health benefit plans.

HRC Director Peter Jamero said, "I am delighted that San Francisco has begun taking steps to recognize the needs of diverse family units such as non-traditional and extended families. The Human Rights Commission stands ready to ameliorate discrimination and will continue to work to ensure equal treatment for all San Franciscans."

Please contact Larry Brinkin or Jackie Winnow at 558-4901 for more information.

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[News]PLN

LB:BS:ad
4/21/89



PUBLIC HEARINGS ON DOMESTIC PARTNERSHIP/

MARITAL STATUS/EXTENDED FAMILY POLICIES

The Human Rights Commission, having conducted a public hearing on March 8, 1989 to study the concepts of domestic partnership benefits/marital status/extended family policies and the impact that currently restricting such benefits to certain groups (heterosexual married persons) has on the people of San Francisco, hereby submits its preliminary findings and recommendations, based on oral and written testimony at the Public Hearing.

FINDINGS:

1. That the City and County of San Francisco, by legislation, policy and practice, has consistently refused to tolerate discrimination based upon sexual orientation;
2. That de facto and de jure discrimination do currently exist in the City and County of San Francisco with regard to domestic partnerships and extended families whether or not related by blood or marriage;
3. That Lesbian/Gay couples, domestic partnerships, and extended families have systematically and institutionally been denied the right to be treated with respect and equity under the law as accorded to heterosexual citizens who engage in legal marriage sanctioned by the State;
4. That members of domestic partnerships and extended families have demonstrated their commitment and responsibility for each other's health and welfare in all areas of life as have heterosexual marriages and blood relationships, and the functional issues of family life do not recognize and are not contingent upon the marital status of the adults of the family and that those taking responsibility for the emotional and economic needs of their families do not know distinctions between legal marriage and non-marriage, nor a particular sexual orientation;
5. That although domestic partnerships affect Lesbians and Gay men, many different family units and family needs can be addressed by changes in legislation;

11. That there are many economic effects to being married or not being married, such as:
 - * it is difficult to collect benefits in order to leave work to care for an ill, unmarried partner (benefits which are presumed for a spouse).
 - * certain services may cost more for unmarried couples, such as house and car insurance.
 - * tax liability is dependent upon marital status.
 - * many citizens are forced to make a choice between honesty and benefits. Non-married heterosexual testifiers confessed "lies" they made in order to enjoy or purchase services.
 - * sometimes unmarried couples are actually subsidizing married couples when businesses offer "married couples discounts." In other situations, these discounts are paid for by savings in economies of scale, but there is no economic reason to discriminate between married and unmarried couples.
 - * married employees enjoy more rights and compensated benefits than those in a domestic partnership, thereby creating a disparity in rights and privileges and may create animosity among employees and management;
12. That legislation be drafted carefully so that there is no federal or state pre-emption;
13. That there are reasonable fears that the use of public affidavits for creating domestic partnerships may be used to jeopardize Lesbians and Gay men. There is a need for confidentiality and a privacy option;
14. That organized religion does not speak with one voice, but generally agree on the inequities imposed by unequal benefits. Regardless, this is a civil matter;
15. That choices concerning grave illness, incapacitation, and death decisions are limited because of policies which do not recognize non-traditional families.
 - * domestic partners have not been granted bereavement leave when long-time partners have died.
 - * domestic partners have not been able to keep children raised jointly when the legal parent has died or become disabled.

* domestic partners have not been able to make health decisions for incapacitated partners.

* current hospital visitation protocols often give power to doctors and nurses in allowing visits from domestic partners;

16. That due to marital discrimination, some elderly persons feel forced not to marry in order to protect their benefits;
17. That families with disabled members have additional needs and concerns, including extended child-rearing periods, and more on-going day-to-day care. Many disabled persons live in households with other disabled persons and attendants; and
18. That there is a need to actively seek legal rights for couples that do not or cannot marry. These rights, which are granted automatically by marriage, can be obtained through seeking durable power of attorney, appropriate wills, designated insurance beneficiary, and other means.

RECOMMENDATIONS:

That the City and County of San Francisco enact legislation rectifying discrimination on account of domestic partnerships, marital status, or extended family status and set policy that recognizes the diversity of San Francisco families; and that staff and resources be given to the Human Rights Commission to administer the non-discrimination aspects of the legislation.

The City should consider the following when enacting legislation and/or policy:

1. That legislation and/or policies cover all aspects of City employment policies, City family and social service policy, and the enforcement and enjoyment of the City's goods and services;
2. That the City should seek to find out if jurisdiction exists to impact the private sector to ensure leave policies, visitation rights, real estate and rental rights, non-discrimination by business establishments and public accommodations. If such jurisdiction does exist, these should be written into the legislation and/or policy;
3. That the identification of domestic partnerships and extended families be undertaken in a manner that does not abridge civil liberties and that offers protection to all parties involved;

4. That the City and County provide a definition of domestic partnership and extended families which is inclusive in its letter and intent;
5. That the City and County develop enforcement provisions to ensure the implementation of its legislation wherever legally possible;
6. That the Health Service System be requested to convene a task force to determine needs and feasibility of adding domestic partners and/or other relationships, to city health benefit plans;
7. That the City produce and distribute information and resource materials for non-traditional families concerning their legal rights in the areas of wills, durable power of medical attorney, living together agreements, etc.

JW:ad
4/14/89

City and County of San Francisco

Human Rights Commission

Office of Minority/Women Business Enterprise

Office of Contract Compliance

Office of Dispute Resolution



Domestic Partner Benefits

DEFINITIONS OF RELEVANT TERMS

Alternative Family. A family unit not necessarily based on a traditional model consisting of head of household and subordinate members. Often, this family is of form different from a nuclear family, consisting of non-married adults, and sometimes children.

Benefit. In the most general sense, an advantage, profit, fruit, privilege, gain, or interest. Legally, the receipt, or right to receipt, of a gain under a contract or other legal instrument. In the case of Domestic Partners, benefits are entitlements enjoyed by city employees as part of their employment compensation.

Bisexual. n: A person who forms primary relationships with persons of either gender. adj: of or pertaining to such a person or persons.

Cohabitation. To live together, in the same manner as would married persons; the mutual assumption of those rights considered marital rights by persons not necessarily married under law.

Commitment. An agreement or pledge. Specifically, an agreement between two or more persons that they will each contribute emotionally and/or materially towards their joint welfare.

Dependent. One who looks to another for support, maintenance, food, clothing, comfort, and protection.

Domicile. The permanent residence of a person; that place which is considered a person's primary home.

Extended Family Policy. The social means of providing recognition and benefits to families that are not traditional nuclear families.

Family. Those most common usage refers to the "nuclear" group consisting of parents and their children. Traditionally a family is a collective body of persons living in one domicile under one head of management. Most generally, a family consists of those persons who live within a domestic circle and are, by legal or moral obligation, emotionally and economically interdependent. The word family conveys the notion of relationship, blood or otherwise. (See Alternative Family and Non-traditional Family)

Gay. n: A homosexual. adj: of or pertaining to homosexuals or homosexuality. Usually referring to men. Gay is preferred as the term rather than homosexual which connotes sexuality exclusively.

- Heterosexual. n: A person who forms primary relationships with persons of the opposite gender. adj: of or pertaining to such a person or persons.
- Homosexual. n: A person who forms primary relationships with persons of the same gender. adj: of or pertaining to such a person or persons.
- Household. A group of persons, such as a family, who reside together with a common domestic purpose.
- Lesbian. n: A woman who forms primary relationships with other women. adj: of or pertaining to such a person or persons. Preferred term to homosexual.
- Life Partner. A person of either gender with whom one has a voluntary commitment to share one's life energies, financial means, and emotional support. One with whom a person shares the ups and downs of life. (See Spouse or Significant Other)
- Living together. Maintaining a household in partnership with another person; cohabitating under conditions which would be regarded as constituting a family or marital relationship.
- Lover. A person with whom one shares a relationship of commitment including emotional and physical intimacy.
- Marital Status. The state of being married, single, divorced, separated, or widowed.
- Marriage. The legal union of one man and one woman as husband and wife.
- Non Traditional Family. A family unit not necessarily based on a traditional model consisting of head of household and subordinate members. Often, this family is of form different from a nuclear family, consisting of non-married adults, and sometimes children.
- Partner. Legally, a person with whom one has a voluntary contract to use in common certain monies, labor, and skills in commerce with the understanding that there will be a proportional sharing of the profits or losses that result.
- Primary relationship. Any relationship considered by those persons undertaking it to be of overriding or primary importance in their lives.
- Sexual Orientation. One's choice of human adult sexual partner according to gender.
- Significant Other. Person with whom one has a primary relationship. (See Spouse and Life Partner)
- Spouse. By law, one's wife or husband. Also used commonly to mean primary relationship.

[Domestic Partners]
AMENDING POLICE CODE TO ADD ARTICLE 40 PROHIBITING DISCRIMINATION
AGAINST DOMESTIC PARTNERS BY CITY AND COUNTY; PROVIDING PROCEDURES
TO ESTABLISH AND TO GIVE NOTICE OF TERMINATION OF DOMESTIC
PARTNERSHIPS; AND PROHIBITING DISCRIMINATION IN HOSPITAL VISITATION
RIGHTS.

Be it ordained by the People of the City and County of San
Francisco:

Section 1. The San Francisco Police Code is amended by
adding Article 40, Sections 4001 to 4010, to read:

NOTE: All language is new; additions and
substitutions have not been underlined.

SEC. 4001. DISCRIMINATION AGAINST DOMESTIC PARTNERS

The City and County shall not discriminate against
Domestic Partners or Domestic Partnerships in any way. This
includes (but is not limited to) using marital status as a factor
in any decision, policy or practice unless it uses Domestic
Partnership as a factor in the same way.

SEC. 4002. DOMESTIC PARTNERSHIPS: DEFINITIONS AND

INFORMATIONAL MATERIAL

(a) Domestic Partnership Defined. Domestic Partners are
two people who have chosen to share one another's lives in an
intimate and committed relationship of mutual caring, who live
together and have signed a Declaration of Domestic Partnership in
which they have agreed to be jointly responsible for basic living
expenses incurred during the Domestic Partnership, and have
established their partnership under Section 4005 of this Article.

/ /

(b) Additional Qualifications to Become Domestic
Partners. To be Domestic Partners, neither person may be
married, the two may not be related to each other in a way which
would bar marriage in California, and both must be 18 or older.
Any different Domestic Partnership of which either was previously
a member must have ended more than six months before the new
Declaration of Domestic Partnership was signed (but this
requirement does not apply if the earlier Domestic Partnership
ended because of the death of one of its members).

(c) "Live Together" Defined. "Live together" means that
two people share the same living quarters. It is not necessary
that the right to possess the quarters be in both names. Two
people may live together even if one or both have additional
separate living quarters. Domestic Partners do not cease to live
together if one leaves the shared living quarters but intends to
return.

(d) "Basic Living Expenses" Defined. "Basic living
expenses" means the cost of basic food, shelter and any other
expenses of a Domestic Partner which are paid at least in part by
a program or benefit for which the partner qualified because of
the Domestic Partnership. The individuals need not contribute
equally or jointly to the cost of these expenses as long as they
agree that both are responsible for the cost.

(e) "Declaration of Domestic Partnership" Defined. A
Declaration of Domestic Partnership is a form, provided by the
County Clerk, in which two people agree to be jointly responsible
for basic living expenses incurred during the Domestic
Partnership and that all the other qualifications for Domestic
Partners are met when the Declaration is signed. The form shall
be contained in a booklet or packet with the informational

SUPERVISOR BRITT

1 materials described in paragraph (f). The form will require each
2 partner to provide his or her primary residence address. The
3 form must be signed under penalty of perjury. Unless it is filed
4 with the City, the form must be witnessed and notarized. The
5 City Attorney shall prepare appropriate forms.

6 (f) Informational Material. The San Francisco Human
7 Rights Commission shall prepare informational material which will
8 describe ways individuals in committed relationships may give
9 their relationships the legal effect they would like them to
10 have. The informational material shall state that the City is
11 not providing legal advice and assumes no responsibility for the
12 accuracy of the information provided.

13 SEC. 4003. ENDING DOMESTIC PARTNERSHIPS

14 (a) Termination. A Domestic Partnership ends when:

- 15 (1) the partners no longer meet one or more of the
- 16 qualifications for Domestic Partnership; or
- 17 (2) one partner sends the other a written notice
- 18 that he or she has ended the partnership; or
- 19 (3) one of the partners dies.

20 (b) Notice of Termination.

21 (1) To Domestic Partners. When a Domestic
22 Partnership ends, the partners must execute a notice of
23 termination naming the partners and stating that the partnership
24 has ended (hereafter "Notice of Termination"). The Notice of
25 Termination must be dated and signed under penalty of perjury by
26 at least one of the partners. If the Declaration of Domestic
27 Partnership for the partnership was filed with the County Clerk,
28 the Notice of Termination must be filed with the Clerk; in all
29 other cases, the Notice of Termination must be notarized and a
30 / /

SUPERVISOR BRITT

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copy given to whomever witnessed the Declaration of Domestic
Partnership.

(2) To Third Parties. A Domestic Partner who has
given a copy of a Declaration of Domestic Partnership to any
third party in order to qualify for any benefit or right must,
whenever the Domestic Partnership ends, give that third party a
copy of the Notice of Termination. If that partner has died, the
surviving partner must give the notice of termination to those
third parties whom she or he knows were given a copy of the
Declaration by the deceased partner in order to qualify for a
benefit or right. The Notice must be sent within 60 days of the
termination of the Domestic Partnership.

(3) Failure to Give Notice. Failure to give notice
as required by this subsection will neither prevent nor delay
termination of the Domestic Partnership. Anyone who suffers any
loss as a result of failure to send either of these notices may
sue the partner who has failed to send the required notice.

SEC. 4004. LEGAL EFFECT OF DECLARATION OF DOMESTIC

PARTNERSHIP

(a) Rights and Duties Created. Neither this Article nor
the filing of a Statement of Domestic Partnership shall create any
legal rights or duties from one of the parties to the other other
than the legal rights and duties specifically created by this
Chapter or other ordinances or resolutions of the San Francisco
Board of Supervisors which specifically refer to Domestic
Partnership.

(b) Duration of Rights and Duties. Once a Domestic
Partnership ends, the partners will incur no further obligations
to each other under this Article.

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SEC. 4005. ESTABLISHING EXISTENCE OF DOMESTIC PARTNERSHIP

(a) Domestic partners may establish the existence of

their Domestic Partnership by either:

(1) Presenting an original Declaration of Domestic Partnership to the County Clerk, who will file it and give the partners a certificate showing that the Declaration was filed by the Clerk; or

(2) Having a Declaration of Domestic Partnership notarized and giving a copy to the person who witnessed the signing. (See Section 4002(e) of this Article.)

(b) The County Clerk shall only accept for filing Declarations of Domestic Partnership submitted by Domestic Partners who have a residence in San Francisco, or where one of the partners works in San Francisco.

(c) Amendments to the Declaration. A Partner may amend a Declaration of Domestic Partnership filed with the County Clerk at any time to show a change in his or her primary residence address.

(d) New Declaration of Domestic Partnership. No person who has created a Domestic Partnership may create another until six months after a Statement of Termination has been signed and either (1) filed with the County Clerk if the Declaration creating the partnership was filed or (11) notarized; provided, however, that if the Domestic Partnership ended because one of the partners died, a new Declaration may be filed anytime after the Notice of Termination has been filed or notarized.

(e) Evidence of Domestic Partnership. Anyone who requires a person to provide evidence of the existence of a Domestic Partnership must accept (but may choose not to require) as complete proof a copy of a Declaration of Domestic Partnership.

SUPERVISOR BRITT

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SEC. 4006. RECORDS, COPIES, FILING FEES

(a) County Clerk's Records. The County Clerk shall keep a record of all Declarations of Domestic Partnership, Amendments to Declarations of Domestic Partnership and all Notices of Termination received by the Clerk. The records shall be maintained so that Amendments and Notices of Termination are filed with the Declaration of Domestic Partnership to which they pertain.

(b) Filing Fees. The County Clerk shall charge a fee of \$35 for filing Declarations of Domestic Partnership and shall charge a fee of \$7 for providing certified copies of Declarations, Amendments or Notices of Termination. There will be no charge for filing Amendments or Notices of Termination.

SEC. 4007. VISITATION IN HEALTH CARE FACILITIES

(a) Patient Designation. Where a health care facility restricts a patient's visitors, the health care facility shall allow every patient to name those individuals whom the patient wishes to allow to visit, unless:

(1) no visitors are allowed; or

(2) the facility determines that the presence of a particular visitor named by the patient would endanger the health or safety of a patient or patients, or would endanger the primary operations of the facility.

(b) Domestic Partners Who Do Not Make Designations. If a patient with whom visiting is restricted has not made the designation provided for in subsection (a), and if the patient has not indicated that she or he wishes no visitors, the facility must allow the patient's Domestic Partner, the children of the patient's Domestic Partner, or the Domestic Partner of the patient's parent or child to visit, unless:

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1 (1) no visitors are allowed; or
2 (2) the facility determines that the presence of a
3 particular visitor would endanger the health or safety of a
4 patient or patients, or would endanger the primary operations of
5 the facility.

6 (c) Health Care Facility Defined. A "Health Care
7 facility" is any clinic, health dispensary or health facility
8 licensed under Division 2 of the California Health and Safety
9 Code, any mental hospital, drug abuse clinic or detoxification
10 center.

11 SEC. 4008. RETALIATION

12 No person who seeks the benefit of this Article shall be
13 discriminated against in any way for seeking that benefit. No
14 person who assists someone else in obtaining the benefit of this
15 Article shall be discriminated against in any way for such
16 assistance.

17 SEC. 4009. ENFORCEMENT.

18 (a) Civil Service Commission and Human Rights
19 Commission. This Article may be enforced by the Civil Service
20 Commission insofar as the actions, decisions, policies and
21 practices at issue pertain to employees of the City and County in
22 their capacity as employees. In all other respects, this Article
23 may be enforced by the San Francisco Human Rights Commission
24 pursuant to Sections 12A.5 and 12A.9 of the Administrative Code.

25 (b) Civil Action. This Article may be enforced by a
26 civil action. A complaint to the Human Rights Commission is not
27 a prerequisite to enforcement in a civil action. The plaintiff
28 in such an action shall be entitled to recover only compensatory
29 damages and no punitive damages.

30 / /

SUPERVISOR BRITT

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BOARD OF SUPERVISORS

(c) Remedies. Any court that finds that this Article
has been violated or will be violated may use all the powers
which it has to remedy or prevent a violation.

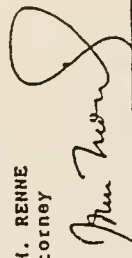
(d) Statute of Limitations. Any action to enforce this
Article must be commenced no later than two years after the
claimed violation.

SEC. 4010. OTHER LAWS.

Nothing in this ordinance shall be construed to interfere
in or mandate the exercise of discretion regarding matters over
which any board or commission of the City and County has
exclusive charter authority, or to conflict with any rights or
requirements established by charter, state or federal law,
including, but not limited to, the rights and obligations
attendant to marriage under state and federal laws. Nothing in
this ordinance shall be deemed to alter or to require the
alteration of eligibility requirements for social service, public
health, and other entitlement programs provided or administered
by the City and County. Nothing in this ordinance shall be
deemed to alter any existing memorandum of understanding to which
the City and County is a party.

APPROVED AS TO FORM:

LOUISE H. RENNE
City Attorney

By: 
Deputy City Attorney

(As amended at Board meeting of 5/22/89)

05/22/89

SUPERVISOR BRITT

PAGE NO. 8
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BOARD OF SUPERVISORS

Board of Supervisors, San Francisco

5 Finally Passed

May 30, 1989

Ayes: Supervisors Alloto Britt
Gonzalez Hallinan Hongisto Hsieh
Kennedy Nelder Ward

Absent: Supervisors Maher Walker

I hereby certify that the foregoing ordinance was finally passed by the Board of Supervisors of the City and County of San Francisco

JUN 5 1989
Date Approved

Mary Anne Stuber
TEACHING CLERK
[Signature]

1 [Task Force to Examine Extension of Health Benefits]
 2 URGING THE MAYOR TO FORM TASK FORCE TO EXAMINE FEASIBILITY OF
 3 EXTENDING HEALTH BENEFITS TO DOMESTIC PARTNERS OF CITY EMPLOYEES.

4
 5 WHEREAS, The right of every person to form private
 6 relationships of mutual caring and economic interdependence without
 7 fear of prejudice is a fundamental human right; and

8 WHEREAS, That right has historically been denied on the
 9 basis of race, religion, and social condition; and

10 WHEREAS, That right continues to be denied to lesbian and
 11 gay couples; and

12 WHEREAS, The result has been a form of second class
 13 citizenship for lesbian and gay couples, including denial of full
 14 access to housing and public services, the ability to enter joint
 15 economic relationships, eligibility for benefits earned by
 16 employment, and participation with equality in the full range of
 17 community transactions; and

18 WHEREAS, The City and County of San Francisco has a strong
 19 tradition of respect for the rights of all citizens, including the
 20 right to form primary relationships; now, therefore, be it

21 RESOLVED, That it is the policy of the City and County of
 22 San Francisco to respect the right of all citizens to form primary
 23 relationships, to share intimacy and to care for one another; and be
 24 it

25 FURTHER RESOLVED, That the City and County of San Francisco
 26 will work aggressively to end discrimination against people whose
 27 relationships are not socially sanctioned, particularly
 28 lesbian and gay couples who are denied recognition given to other
 29 couples; and be it

1 FURTHER RESOLVED, That in order to begin implementing this
 2 policy, the Board of Supervisors call upon the Mayor to create a
 3 Task Force to

4 1. Develop a plan within three months, for adoption by
 5 the Health Services System, under which lesbian and gay couples and
 6 other nonmarital couples may be accorded the benefit of the City's
 7 Health Benefits plan, and

8 2. Systematically examine all policies and practices of
 9 the City, identify those which disadvantage lesbian and gay couples
 10 and other nonmarital couples, and propose changes to end that
 11 discrimination.

0362p

Admpted - Board of Supervisors, San Francisco May 22, 1989

Ayes: Supervisors Alioto Britt Gonzalez Hallinan Hsieh Kennedy
Mabey Melder Melker Ward

Absent: Supervisor Hongisto

I hereby certify that the foregoing resolution
was adopted by the Board of Supervisors
of the City and County of San Francisco

MAY 25 1989

Date Approved

Ma. Rosa Bello
ACTING CLERK
[Signature]
Mayor

File No.
216-89-2

